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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/617,082

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Steven B. Leeb

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11/13/2006

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

EXAMINER

PASCAL, LESLIE C

ART UNIT

PAPER NUMBER

2613

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/617,082

Applicant(s)

LEEB ET AL.

Examiner

Leslie Pascal

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION:

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. Applicant's election without traverse of invention II in the reply filed on 10-18-06 is acknowledged.

2. With regard to claims 52, 58 and 61, see MPEP 2173.05(p), section II.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 52, 58 and 61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claims 52, 58 and 61, see MPEP 2173.05(p), section II.

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 52, 58 and 61 are rejected as claiming two statutory classes. These claims claim both a method and a means. With regard to claims 52, 58 and 61, see MPEP 2173.05(p), section II.

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the central computer system, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. . The only discussion of the CLAIMED material is drawn toward the summary of the invention. Although this section says that all of the information about relative and absolute position and determining position is in the patents to which the applicant claims priority, there is no mention of relative and absolute location or position

and the methods claimed in this application, in the previous priority documents. In the detailed description and brief description of the drawings, there is NO disclosure drawn toward the claimed subject matter. The means to provide these methods and functions are never shown. Connections between these devices are not shown or disclosed.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 8-24, 26-51, 53-58, 59-60, 62-79 are rejected under 35 U.S.C. 102(e) as being anticipated by Perkins et al (6865347).

Perkins et al teach a method of determining a location by providing a lighting infrastructure having transmitters which optically transmit a respective relative position of the transmitter with respect to a fixed position (claim 8, lines 2-5), detecting the relative position (claim 8, lines 6-8) and determining the relative position of the receiver from the detected relative position (claim 8, lines 9-11). In regard to claims 9 and 27, see claim 2 of Perkins. In regard to claims 10-11, see column 4, lines 1-14 of Perkins. In regard to claims 13, see claim 6 of Perkins. In regard to claim 14, see column 6, lines 1-9 of Perkins. In regard to claim 15, see column 6, lines 66-column 7, line 3 and lines 9-17 and 27-29 of Perkins. In regard to claim 16-19, he teaches an address (column 7, line 1). In regard to claim 20, see column 7, lines 9-10. In regard to claim 21-22, see column 7, lines 17-20. In regard to claim 23, see column 7, lines 5-9 and 21-29. In regard to claims 24 and 28, see column 7, lines 53-60 and 21-25. In regard to terrestrial of claim 29, see column 3, lines 15-18. In regard to claims 36 and 39, see claims 11 and 14 of Perkins. In regard to claim 43, see claim 18 of Perkins. In regard to claim 44, see claim 19 of Perkins. In regard to claim 45, see claim 20 of Perkins. In regard to claims 46-48, see claims 21-23, respectively of Perkins. In regard to claims 64-79, see column 5, lines 31-35.

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10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 25, 52, 58 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins et al (6865347).

In regard to claim 25, see claim 7 and column 7, lines 35-38 of Perkins. In that he teaches that the central office does the relative determining and he teaches that the receiver can do the determining steps using the list and the central office stores the list, it would have been obvious to use these steps at either the central office or the receiver. In regard to claims 52, 58 and 61; see column 6, lines 40-44 and column 7, lines 45-49. Although he does not specifically teach that he corrects the position using the list, in other embodiments, he teaches using the list to determine the position, it would have been obvious to determine the position and correct it based on the list, since he teaches that it is well known to determine the position based on either calculations or using a list to determine.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Pascal whose telephone number is 571-272-3032. The examiner can normally be reached on Monday- Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571-272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Leslie Pascal
Primary Examiner
Art Unit 2613